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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/528,404	04/14/2005	Shuji Ichikawa	053466-0399	2536
22428	7590	04/06/2007	EXAMINER	
FOLEY AND LARDNER LLP			FAISON GEE, VERONICA FAYE	
SUITE 500			ART UNIT	PAPER NUMBER
3000 K STREET NW			1755	
WASHINGTON, DC 20007				
SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE		DELIVERY MODE	
3 MONTHS	04.06/2007		PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	10/528,404	ICHIKAWA ET AL.	
	Examiner Veronica Faison-Gee	Art Unit 1755	

- The MAILING DATE of this communication appears on the cover sheet with the correspondence address -
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on _____.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-15 is/are rejected.
- 7) Claim(s) _____ is/are objected to. Unallowable subject matter, Prior art, Enablement, Drawings, etc.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

- (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ichikawa (US Patent 6,786,956) in view of Ikeda et al (US 2004/0207702).

Ichikawa teaches a ballpoint pen oil-based ink composition comprising an a colorant, an oil-based solvent, a mixture of at least one phosphoric acid ester, and at least one weakly cationic component selected from the group consisting of: imidazoline-type activator, polyoxyethylene alkylamine, polyoxyethylene alkylamide and alkylalkanolamide (abstract and col. 2 lines 15-23). The phosphoric acid ester is present in the amount of 0.1 to 15.0 percent by weight (col. 5 lines 35-36). The solvent present in the composition include alcohols, polyhydric alcohols and glycol ethers such as 3-methyl-1,3-butanediol, 1,3-butanediol, 3-methyl-3-methoxy-1-butanol, propylene glycol monomethyl ether (col. 6 lines 26+). A resin may be present in the composition in the amount of 1 to 30 percent by weight (col. 8 lines 28-30). The colorant present in the composition may be a dye or pigment, which may be present in the amount of 1 to 50 percent by weight (col. 8 lines 34-55). The reference further teaches that the ink composition may be used in a ballpoint pen, which may also include an ink follower (col. 9 lines 26-42). The reference fails to teach the specific formula set forth in claim 1.

Art Unit: 1755

Ikeda et al teaches an ink composition comprising amphoteric surfactants including amino acid types, carboxyammonium betaine types, sulfone ammonium betaine types, ammonium sulfate betaine types and imidazolium betaines.

Therefore it would have been obvious to one of ordinary skill in the art that any betaine type surfactant may be a replacement for an imidazolium betaine as shown by Ikeda et al.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Veronica Faison-Gee whose telephone number is 571-272-1366. The examiner can normally be reached on Monday-Thursday and alternate Fridays 8 am to 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jerry Lorengo can be reached on 571-272-1233. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1755

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

VFG
3-30-07

J. A. LORENZO
SUPERVISORY PATENT EXAMINER

